

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35541/35542

STATE OF IDAHO,)	2009 Unpublished Opinion No. 482
)	
Plaintiff-Respondent,)	Filed: May 29, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
DARRELL WYATT MORRIS,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael E. Wetherell, District Judge.

Judgments of conviction and unified sentence of five years, with three years determinate, for eluding a police officer; and consecutive unified sentence of ten years, with three years determinate, for driving under the influence of alcohol, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sara B. Thomas, Chief, Appellate Unit, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before PERRY, Judge, GUTIERREZ, Judge
and GRATTON, Judge

PER CURIAM

Darrell Wyatt Morris appeals from the judgments of conviction in two cases that were consolidated for purposes of sentencing. In case number 35541, Morris was charged with eluding a police officer, I.C. § 49-1404(2)(a), and pursuant to a plea agreement, pled guilty to the charge and the state agreed to dismiss a separate case and to remand yet another case as a misdemeanor. While awaiting sentencing on the eluding charge, Morris was charged with and pled guilty to driving under the influence of alcohol (DUI), I.C. §§ 18-8004, 18-8005(5), in case number 35542. The district court sentenced Morris to a unified term of five years, with three years determinate, on the eluding charge and to a consecutive unified term of ten years, with

three years determinate, on the DUI. Morris filed an Idaho Criminal Rule 35 motion for reduction of sentence in case number 35542, which the district court denied. Morris appeals from his judgments of conviction and sentences, contending that the district court abused its discretion by failing to consider his mental illness and alternatively by imposing excessive sentences.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007). Moreover, in determining the sentence to be imposed in addition to other criteria provided by law, if the defendant's mental condition is a significant factor, the court shall consider such factors as:

- (a) The extent to which the defendant is mentally ill,
- (b) The degree of illness or defect and level of functional impairment;
- (c) The prognosis for improvement or rehabilitation;
- (d) The availability of treatment and level of care required;
- (e) Any risk of danger which the defendant may create for the public, if at large, or absence of such risk;
- (f) The capacity of the defendant to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law at the time of the offense charged.

Idaho Code Section 19-2523(1)(a-f)

Applying the foregoing standards and having reviewed the record, we conclude that the district court properly considered the factors involving mental health and did not abuse its discretion by imposing Morris's sentences. Accordingly, Morris's judgments of conviction and sentences are affirmed.